

## § 123.603

this subpart if you (or any principal of the business) fit into any of the categories in §§123.101 and 123.201, or if your business is:

- (a) Engaged in lending, multi-level sales distribution, speculation, or investment (except for real estate investment with property held for rental on September 11, 2001);
- (b) A non-profit or charitable concern;
- (c) A consumer or marketing cooperative;
- (d) Not a small business concern; or
- (e) Deriving more than one-third of gross annual revenue from legal gambling activities;
- (f) A loan packager which earns more than one-third of its gross annual revenue from packaging SBA loans;
- (g) Principally engaged in teaching, instructing, counseling, or indoctrinating religion or religious beliefs, whether in a religious or secular setting; or
- (h) Primarily engaged in political or lobbying activities.

### **§ 123.603 What is the interest rate on an economic injury disaster loan under this subpart?**

Your economic injury disaster loan under this subpart will have an interest rate of 4 percent per annum or less.

### **§ 123.604 How can my business spend my economic injury disaster loan under this subpart?**

(a) You can only use the loan proceeds for working capital necessary to carry your concern until resumption of normal operations and for expenditures necessary to alleviate the specific economic injury, but not to exceed that which the business could have provided had the injury not occurred.

(b) Loan proceeds may not be used to:

- (1) Refinance indebtedness which you incurred prior to September 11, 2001;
- (2) Make payments on loans owned by another federal agency (including SBA) or a Small Business Investment Company licensed under the Small Business Investment Act;
- (3) Pay, directly or indirectly, any obligations resulting from a federal, state or local tax penalty as a result of negligence or fraud, or any non-tax criminal fine, civil fine, or penalty for non-compliance with a law, regulation,

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or order of a federal, state, regional, or local agency or similar matter;

(4) Repair physical damage; or

(5) Pay dividends or other disbursements to owners, partners, officers, or stockholders, except for reasonable remuneration directly related to their performance of services for the business.

### **§ 123.605 How long do I have to apply for a loan under this subpart?**

You have until January 22, 2002 to apply for a loan under this subpart. Your application must be postmarked no later than this date. SBA has the discretion, for good cause, to extend the application deadline by publication of a notice in the FEDERAL REGISTER.

### **§ 123.606 May I request an increase in the amount of an economic injury disaster loan under this subpart?**

Yes. Notwithstanding §123.20, you may request an increase in the amount of an economic injury disaster loan under this subpart not later than one year after the date SBA approves your initial request.

## **Subpart H—Immediate Disaster Assistance Program**

SOURCE: 75 FR 60598, Oct. 1, 2010, unless otherwise noted.

### **§ 123.700 What is the Immediate Disaster Assistance Program?**

(a) The Immediate Disaster Assistance Program (IDAP) is a guaranteed disaster loan program for small businesses that have suffered physical damage or economic injury due to a Declared Disaster. An IDAP loan is an interim loan in an amount not to exceed \$25,000 made by an IDAP Lender to meet the immediate business needs of an IDAP Borrower while approval of long-term financing from a Disaster Loan is pending with SBA.

(b) *Definitions.* As used in this subpart, the terms below are defined as follows:

*Contiguous Counties* means the counties or other political subdivisions identified in the IDAP-Eligible Disaster Declaration as abutting the Primary Counties.

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*Credit Elsewhere* means that the IDAP Borrower is able to address disaster losses using available personal or business resources or access to nonfederal lending sources at reasonable rates and terms.

*Declared Disaster* is a disaster event for which an IDAP-Eligible Disaster Declaration has been issued.

*Declared Disaster Area* means the Primary Counties and the Contiguous Counties identified for a particular Declared Disaster.

*Disaster Loan* means a disaster loan authorized by Section 7(b) of the Small Business Act.

*IDAP Borrower* is the obligor of an IDAP loan.

*IDAP Lender* is a financial institution participating in the IDAP loan program, subject to the requirements of this subpart.

*IDAP Loan Program Requirements* are requirements imposed upon an IDAP Lender by statute, SBA regulations, any agreement the IDAP Lender has executed with SBA, SBA SOPs, SBA procedural guidance, official SBA notices and forms applicable to the IDAP loan program, and loan authorizations, as such requirements are issued and revised by SBA from time to time.

*IDAP-Eligible Disaster Declaration* means a Major Disaster Declaration, SBA Administrative Disaster Declaration or SBA EIDL-Only Disaster Declaration in which SBA has indicated that IDAP loans are available.

*Initial Period* is the IDAP loan repayment period that begins upon the initial disbursement of an IDAP loan and ends upon (i) full repayment of the IDAP loan from the proceeds of the IDAP Borrower's Disaster Loan; (ii) SBA notice to the IDAP Lender of decline of the IDAP Borrower's Disaster Loan Application; or (iii) receipt by the IDAP Lender of partial repayment of the IDAP loan from the proceeds of the Disaster Loan; provided that if the IDAP loan has not been fully disbursed at such time, the Initial Period shall not end until the IDAP loan is fully disbursed.

*Major Disaster Declaration* means a disaster declaration issued under § 123.3(a)(1) of this part.

*Other Recoveries* are other compensation for disaster losses and include, but

are not limited to: Proceeds of policies of insurance or other indemnifications; grants or other reimbursement (including loans) from government agencies or private organizations; claims for civil liability against other individuals, organizations or governmental entities; gifts; condemnation awards; and salvage (including any sale or re-use) of items of disaster-damaged property. If an IDAP Borrower has voluntarily paid insurance recoveries to a recorded lienholder, the amount paid is considered to be Other Recoveries.

*Primary Counties* means the counties or other political subdivisions identified in the IDAP-Eligible Disaster Declaration as having been adversely affected by the disaster.

*SBA Administrative Disaster Declaration* means a disaster declaration issued under § 123.3(a)(3) of this part.

*SBA EIDL-Only Disaster Declaration* means a disaster declaration issued under § 123.3(a)(5) of this part.

*Substantial Economic Injury* exists when a business concern is unable to meet its obligations as they mature or to pay its ordinary and necessary operating expenses. Loss of anticipated profits or a drop in sales is not considered substantial economic injury.

*Term Period* is the repayment period that begins following:

- (i) SBA notice to the IDAP Lender of decline of the IDAP Borrower's Disaster Loan application;
- (ii) Receipt by the IDAP Lender of partial repayment of the IDAP loan from the proceeds of the Disaster Loan; or
- (iii) Final disbursement of the IDAP loan, whichever is later, and ends when the IDAP loan is repaid in full.

### § 123.701 What is the application procedure for an IDAP loan?

A prospective IDAP Borrower must apply to an IDAP Lender for an IDAP loan by the application deadline for prospective IDAP Borrowers established by SBA in the IDAP-Eligible Disaster Declaration. If the IDAP Lender approves the application, it must submit a request for IDAP loan approval to SBA by the application deadline for IDAP Lenders established by SBA in the IDAP-Eligible Disaster